

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,
Plaintiff,

v.

[1] WANDA VÁZQUEZ GARCED,
[2] JULIO M. HERRERA VELUTINI,
[3] MARK T. ROSSINI,
Defendants.

CRIMINAL NO. 3:22-342 (SCC)

**THE UNITED STATES' UNOPPOSED MOTION TO PRODUCE AND
FOR A FED. R. EVID. 502(d) PROTECTIVE ORDER OVER DISCOVERY
MATERIALS THAT MAY CONTAIN POTENTIALLY PRIVILEGED OR
PROTECTED MATERIAL OF A THIRD-PARTY**

The United States of America, by and through its assigned Filter Team,¹ respectfully files this motion seeking authorization to produce to Defendants Wanda Vázquez Garced, Julio M. Herrera Velutini, and Mark T. Rossini (collectively “Defendants”) discovery materials that may contain information potentially subject to the attorney-client privilege, attorney work product doctrine, or other privilege or protection belonging to a third-party (collectively “BIBTC Filter Material”) and that this material be subject to a protective order, pursuant to Fed. R. Evid. 502(d). The Government has communicated with counsel for Driven Administrative Services, LLC, acting in its capacity as receiver (the “Receiver”) for Third-Party Bancredito International Bank & Trust, Corp. (hereinafter “BIBTC”), and counsel has represented that the Receiver for BIBTC consents to this motion. Counsel for Defendants also do not object to this motion.

¹ Pursuant to the Court’s Order, ECF No. 170, the Filter Team is not composed of members from the Department of Justice’s Public Integrity Section. Filter Team Counsel have a separate reporting and supervisory chain from the Prosecution Team in this case and are supported by paralegals and other professional staff who are not part of the Prosecution Team and who are not part of the Public Integrity Section.

The Government has identified that certain material subject to discovery in this matter may contain information subject to the attorney-client privilege, attorney work product doctrine, or other privilege or protection of BIBTC. The material at issue includes material obtained in response to search warrants executed on an Apple Account associated with Defendant Herrera; a Yahoo Account associated with Defendant Hererra; an Apple Account associated with Defendant Rossini; a Google Account associated with Defendant Rossini; an Apple Account associated with Frances Diaz, the former president of BIBTC who pleaded guilty in March 2022 in Case No. 222-cr-085 (FAB); a Yahoo Account associated with Diaz; and two phones seized from Diaz.

In addition to applying filter terms provided by the account holders on the applicable materials (i.e., Defendant Rossini's term will be applied on Rossini's email accounts), out of an abundance of caution, the Filter Team is also applying filter terms provided by counsel for the Receiver for BIBTC on these accounts because Herrera was the sole shareholder of BIBTC, Diaz was BIBTC's president and CEO, and the Government understands that Rossini may have done contract work for BIBTC.

Pursuant to Fed. R. Evid. 502(d), the Court may order that any information potentially subject to the attorney-client privilege, attorney work product doctrine, or other privilege or protection shall not result in any subject matter waiver in this proceeding and will not result in the waiver of the attorney-client privilege, attorney work product doctrine, or any other applicable privilege or protection, in this or in any other Federal or State proceeding. In addition, pursuant to Fed. R. Crim. P. 16(d), the Court may regulate discovery and grant any appropriate relief. Accordingly, to comply with its discovery obligations and to avoid protracted litigation over any potential privileges or protections held by BIBTC, the Government, through its Filter Team, and with consent of the Receiver for BIBTC, respectfully requests that the Court enter a 502(d)

protective order over the BIBTC Filter Material and authorize the Filter Team to produce this Material to Defendants. In addition, the previously entered Protective Orders (ECF Nos. 31 and 76) shall also apply to this material. Material hitting on the terms provided by the account holder will be produced to the account holder for privilege assertion in the first instance prior to production to any other party. Material that does not hit on any account holder terms, but does hit on BIBTC's terms, will be provided to all Defendants, subject to the non-waiver protections provided by Fed. R. Evid. 502(d).

The BIBTC Filter Material will not be produced to the Government's Prosecution Team without further authorization by BIBTC or the Court.²

CONCLUSION

For the foregoing reasons and for any other such reasons as may appear to the Court, the Government respectfully requests that the Court grant the Government's motion seeking a Fed. R. Evid. 502(d) Protective Order over the BIBTC Filter Material and authorize the production of the BIBTC Filter Material to Defendants pursuant to Fed. R. Crim. P. 16(d) and the Fed. R. Evid. 502(d) Protective Order.

RESPECTFULLY SUBMITTED, this 8th day of November, 2023.

GLENN S. LEON, CHIEF
Chief, Fraud Section
CRIMINAL DIVISION,
U.S. DEPARTMENT OF JUSTICE

/s/ Joanna K. W. Bowman
JOANNA K. W. BOWMAN
TRIAL ATTORNEY
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² The Government reserves the right to seek authorization from the privilege holder or the Court to produce the BIBTC Filter Material or any portion thereof to the Prosecution Team.

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CERTIFICATE OF CONFERENCE

I HEREBY CERTIFY that I conferred with counsel for Defendants Wanda Vázquez Garced, Julio M. Herrera Velutini, and Mark T. Rossini, and their counsel does not object.

In addition, I hereby certify that I conferred with counsel for the Receiver for BIBTC, and counsel consents.

/s/ Joanna K. W. Bowman

Joanna K. W. Bowman

Trial Attorney

United States Department of Justice

Criminal Division, Fraud Section

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, November 8, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will notify all counsel of record.

I hereby certify that on this date, November 8, 2023, I sent a copy of this filing and proposed order to counsel for the Receiver for BIBTC via email.

/s/ Joanna K. W. Bowman

Joanna K. W. Bowman

Trial Attorney

United States Department of Justice

Criminal Division, Fraud Section